

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1165**

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**Introduced by Assembly Member Skinner**  
(Principal coauthor: Senator Hancock)  
(*Coauthors: Assembly Members Ting and Williams*)

February 22, 2013

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An act to amend Sections 6600 and 6600.5 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as amended, Skinner. Occupational safety and health: violations.

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue citations to employers. Existing law establishes the Occupational Safety and Health Appeals Board in the department, and prescribes procedures for the appeals board to hear and decide employer appeals of the division's enforcement actions.

This bill, *with specified exceptions*, would provide that an appeal of ~~a citation, notice, special order, action order, or proposed penalty~~ *certain enforcement actions* that ~~is~~ *are* classified and cited as a serious violation, a willful violation, a repeated violation, or a failure to abate a serious violation shall not stay abatement dates and ~~requirements, except as specified.~~ *requirements.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6600 of the Labor Code is amended to read:

6600. (a) An employer served with a citation or notice pursuant to Section 6317, or a notice of proposed penalty under this part, or any other person obligated to the employer as specified in subdivision (b) of Section 6319, may appeal to the appeals board within 15 working days from the receipt of ~~such~~ *the* citation or ~~such~~ notice with respect to violations alleged by the division, abatement periods, amount of proposed penalties, and the reasonableness of the changes required by the division to abate the condition.

(b) An appeal of a citation or notice pursuant to Section 6317, or a notice of proposed penalty under this part, that is classified and cited as a serious violation, a willful violation, a repeated violation, or a failure to abate a serious violation shall not stay the abatement dates and ~~requirements~~ *requirements*, except as follows:

(1) An employer may request a stay of abatement for a citation or notice of civil penalty classified as a serious violation, willful violation, repeated serious violation, or failure to abate a serious violation in a notice of appeal.

(2) The department shall stay the abatement for a serious violation, willful violation, repeated serious violation, or a failure to abate a serious ~~violation~~ *violation*, if the department ~~cannot determine that the preliminary evidence shows a substantial probability of death or serious physical harm to an employee.~~ *determines that there is a substantial likelihood of success by the employer on the contested matters and that a stay will not adversely affect the health and safety of employees.* The ~~decision to stay an abatement will~~ *decision to stay an abatement* on a request for a stay of abatement shall be final unless the employer renews the request for a stay of abatement in a direct appeal of the redetermination to the board.

(c) ~~An abatement requirement shall be stayed~~ *The department may stay an abatement requirement* while a motion to stay an abatement is pending.

SEC. 2. Section 6600.5 of the Labor Code is amended to read:

6600.5. (a) An employer served with a special order or any action order by the division pursuant to Section 6308, or any other person obligated to the employer as specified in subdivision (b)

1 of Section 6319, may appeal to the appeals board within 15  
2 working days from the receipt of the order with respect to the  
3 action ordered by the division, abatement periods, *or* the  
4 reasonableness of the changes required by the division to abate  
5 the condition.

6 (b) An appeal of a special order or an action order by the  
7 division pursuant to Section 6308 that is classified and cited as a  
8 serious violation, a willful violation, a repeated violation, or a  
9 failure to abate a serious violation shall not stay the abatement  
10 dates and ~~requirements~~ *requirements*, except as follows:

11 (1) An employer may request a stay of abatement for a serious  
12 violation, willful violation, repeated serious violation, or failure  
13 to abate a serious violation in a notice of appeal.

14 (2) The department shall stay the abatement for a serious  
15 violation, willful violation, repeated serious violation, or a failure  
16 to abate a serious ~~violation~~ *violation*, if the department ~~cannot~~  
17 ~~determine that the preliminary evidence shows a substantial~~  
18 ~~probability of death or serious physical harm to an employee.~~  
19 *determines that there is a substantial likelihood of success by the*  
20 *employer on the contested matters and that a stay will not adversely*  
21 *affect the health and safety of employees. The decision to stay an*  
22 *abatement will on a request for a stay of abatement shall be final*  
23 unless the employer renews the request for a stay of abatement in  
24 a direct appeal of the redetermination to the board.

25 (c) ~~An abatement requirement shall be stayed.~~ *The department*  
26 *may stay an abatement requirement* while a motion to stay an  
27 abatement is pending.